

06-16-08

02:16pm

From-Baum Sigman

3122360241

T-843

P.002/004

F-843

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, *et al.*,

Plaintiffs,

vs.

HILDEBRANDT PAVING, LTD.,
an Illinois corporation,

Defendant.

CIVIL ACTION

NO. 08 C 2070

JUDGE SAMUEL DER-YEGHLYAN

AFFIDAVIT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

DAVID S. BODLEY, being first duly sworn upon his oath, deposes and states:

1. He is now, and has since the first day of May, 1999, been employed by the Trustees of the Midwest Operating Engineers Fringe Benefit Funds as administrative manager, and in such capacity, has personal knowledge of the matters hereinafter set forth and if called as a witness in the instant proceedings is competent to testify in respect thereto.

2. He has read the Complaint filed in this cause, and knows of his own personal knowledge the contents of the collective bargaining agreements and Agreements and Declarations of Trust and all facts alleged therein, and if called and sworn as a witness is competent to testify thereto.

06-16-08 02:16pm From-Baum Sigman

9122360241

T-843 P.003/004 F-843

3. He is charged with keeping and maintaining records of contributions received by the Plaintiff Funds, maintains individual records on each person, firm and corporation required to make contributions to said Plaintiff Funds, receives and records contribution reports made by such persons, firms or corporations, and has under his supervision and direction all books, records, documents and papers relating to such Plaintiff Funds.

4. He has examined the account of Defendant in the above-entitled cause, and states that said Defendant:

- (a) is required to make monthly contribution reports under the terms of the aforesaid collective bargaining agreement;
- (b) has failed to submit all monthly contribution reports due to date;
- (c) has submitted monthly contribution reports for the months of August 2006 through November 2007, but has failed to submit the contributions which it acknowledges therein to be due as set forth below:

	<u>Contributions</u>
Welfare Fund	\$47,948.07
Pension Fund	\$36,215.36
Apprenticeship Fund	\$ 3,410.73
Vacation Fund	\$ 3,039.52

- (d) has had employees covered by the collective bargaining agreement during the month of September 2007, and that these employees have submitted to him check stubs showing the number of hours worked by them for the Defendant; based upon these check stubs he has determined that the following contributions and liquidated damages are due therefor:

	<u>Contributions</u>	<u>Liquidated Damages</u>
Welfare Fund	\$1,369.55	\$136.96
Pension Fund	\$ 910.53	\$ 91.05
Apprenticeship Fund	\$ 105.35	\$ 10.54
Vacation Fund	\$ 285.95	\$ 28.60

06-16-08 02:16pm From-Baum Sigman

3122360241

T-843 P.004/004 F-843

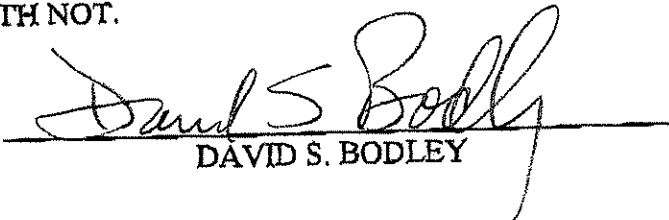
5. Pursuant to the Trust Agreements he has assessed a liquidated damages surcharge against the Defendant in the amount of ten (10%) percent of all contributions due and unpaid and all contributions which were paid late, for the months of April 2006 through November 2007, in amounts set forth below:

	<u>Liquidated Damages</u>
Welfare Fund	\$7,500.91
Pension Fund	\$5,821.86
Apprenticeship Fund	\$ 580.53
Vacation Fund	\$1,407.64

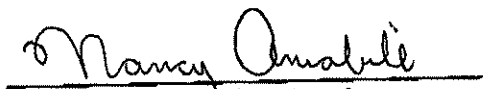
6. He is duly authorized by Plaintiffs in this behalf, has personal knowledge of the matters set forth above and if called as a witness in this cause, is competent to testify thereto.

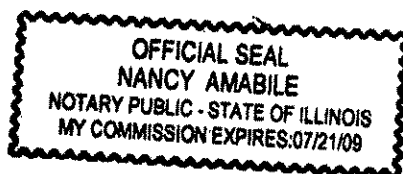
7. He makes this Affidavit in support of the application of Plaintiffs for entry of judgment and requests this Court to consider the same as proof in support of the allegations contained in the Complaint of the Plaintiffs and such other facts herein set forth.

FURTHER AFFIANT SAYETH NOT.


DAVID S. BODLEY

SUBSCRIBED AND SWORN
TO before me this 16th
day of June 2008.


NOTARY PUBLIC



I:\MOE\Hildebrandt Faving\2008\bodley affidavit.cmx.df.wpd

CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Affidavit of David S. Bodley) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 17th day of June 2008:

Ms. Judy Hildebrandt, President
Hildebrandt Paving, Ltd.
45W860 Plank Road
Hampshire, IL 60140

Mr. Craig Hildebrandt, Secretary
Hildebrandt Paving, Ltd.
37-A Ione Drive
South Elgin, IL 60177

/s/ Cecilia M. Scanlon

Cecilia M. Scanlon
Attorney for Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6288574
Telephone: (312) 236-4316
Facsimile: (312) 236-0241
E-Mail: cscanlon@baumsigman.com